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21 **UNITED STATES DISTRICT COURT**
22 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
23 **SAN FRANCISCO DIVISION**

24 AMERICAN FEDERATION OF
25 GOVERNMENT EMPLOYEES, *et al.*

26 Plaintiffs,

27 v.

28 DONALD J. TRUMP, *et al.*,

Defendants.

Case No. 3:25-cv-03698-SI

DECLARATION OF NOAH PETERS

1 I, Noah Peters, declare, pursuant to 28 U.S.C. § 1746, as follows:

2 1. I am the Senior Advisor to the Director of the U.S. Office of Personnel Management
3 (“OPM”), headquartered in Washington, D.C. I have served in this position since January 20,
4 2025. This declaration is based on my personal knowledge and information provided to me in my
5 official capacity by others.

6 2. The government’s June 2 Supreme Court stay application (as well as its withdrawn
7 May 16 Supreme Court stay application) referred to an estimate by OPM that “about 40 RIFs in
8 17 agencies were in progress and are currently enjoined” by this Court, in the course of explaining
9 the harms to the government’s interests caused by the injunction. The estimate of “about 40 RIFs
10 in 17 agencies” reflects results primarily from an early, initial step in RIF planning: OPM approval
11 of an agency’s request pursuant to 5 C.F.R. § 351.402(c) for approval of a competitive area that
12 had been in effect for less than 90 days.

13 3. It also derives from another waiver request that agencies can submit to OPM: to
14 shorten the RIF notice period when the RIF is “caused by circumstances not reasonably
15 foreseeable.” *See* 5 C.F.R. § 351.801(b).

16 4. As a matter of practice, OPM’s Office of Workforce Policy and Innovation reviews
17 agency requests for competitive area and notice period waivers, and these requests are also
18 reviewed by OPM’s Office of General Counsel to ensure that any OPM approval satisfies legal
19 requirements.

20 5. OPM chose these waiver approval measures as the best available means of
21 estimating how many RIFs were in progress across the Federal government connected in some
22 way with Executive Order 14210 and thus were subject to the Court’s injunction, which enjoined
23 all defendants’ actions to implement the relevant provisions of the Executive Order. The estimate
24 was over-inclusive in some ways but under-inclusive in other ways.

25 6. The estimate was over-inclusive insofar as it inadvertently included certain non-
26 enjoined agencies as well as competitive areas identified not because of Executive Order 14210,
27 but for other reasons. Such reasons might include, for example, the President’s Executive Order
28 14151, *Ending Radical And Wasteful Government DEI Programs And Preferencing*, issued

1 January 20, 2025, which directed agencies to “terminate to the maximum extent allowed by law,
2 all DEI, DEIA, and ‘environmental justice’ offices and positions.”

3 7. But the estimate was under-inclusive for other reasons. First, the estimate of about
4 40 RIFs in 17 agencies derived from the number of competitive and notice period area waivers
5 that OPM approved between March 10, 2025 and April 13, 2025—a set of potential RIFs that
6 would have excluded competitive area and notice period waivers approved before March 10 or
7 after April 13 (this range was initially chosen to exclude both RIFs that may have been entirely
8 completed before May 9 consistent with the general 60-day notice requirement for a RIF, along
9 with later RIFs that may have been undertaken irrespective of Executive Order 14210 or which
10 may not have progressed beyond the planning stage).

11 8. Second, the estimate likely missed many RIFs affecting competitive areas that had
12 been in effect for more than 90 days prior to the RIF effective date.

13 9. More broadly, the estimate almost certainly understated the harm to the
14 Government from the preliminary injunction because agencies may have been planning to submit
15 requests for competitive area or notice period waivers to OPM after May 9, 2025, but abstained
16 from doing so because of the Court’s TRO and the subsequent injunction. In addition, OPM
17 approved several waiver requests from defendant-agencies before March 10, 2025 and in the time
18 between April 13, 2025 and May 9, 2025—but those approvals were not included in the “about 40
19 RIFs in 17 agencies” estimate.

20 10. Attached to my declaration is a list of all agency request for exceptions to the 90-
21 day limitation on changing competitive areas and for a shortened RIF notice period (irrespective
22 of whether the agency is a defendant in this case or not) that were approved by OPM between
23 March 10, 2025 and April 13, 2025. This is the list that provided the basis for OPM’s estimate of
24 “about 40 RIFs in 17 agencies.”

25 11. Note that OPM does not know based on the competitive area or notice period
26 waiver requests how many positions an agency proposed to eliminate within these competitive
27 areas; which positions it planned to eliminate; and what competitive levels would have been
28 affected. Such specifics were not included in the competitive area or notice period waiver requests.

1 Thus, OPM's list does not reflect this information. In some other cases, RIFs may have been
2 completed before May 9, 2025 (the date of the Court's temporary restraining order). And in some
3 cases, agencies submitted their entire organizational chart to OPM and may not have intended to
4 conduct a RIF in some or many of the competitive areas identified. Finally and as previously
5 explained, some agencies may have decided not to proceed with RIFs, in particular because of
6 developments since May 9.

7 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
8 and correct based on my personal knowledge.

9 Dated: July 24, 2025

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12 /s/ Noah Peters
13 NOAH PETERS
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**List of Agency Reduction in Force Competitive Areas and Notification Waivers Approved
by OPM Between March 10, 2025 and April 13, 2025**

This is a list of agency requests for exceptions to the 90-day limitation and 60-day notice period on changing competitive areas that were approved by OPM between March 10, 2025 and April 13, 2025. *See* 5 C.F.R. § 351.402(a) (“When a competitive area will be in effect less than 90 days prior to the effective date of a reduction in force, a description of the competitive area shall be submitted to the OPM for approval in advance of the reduction in force.”). *id.* § 351.801(b) (allowing a shortened RIF notice period when the RIF is “caused by circumstances not reasonably foreseeable.”). This list reflects the data used as the basis for OPM’s estimate in Defendants’ June 2 Supreme Court application that “about 40 RIFs in 17 agencies were in progress and are currently enjoined” by this Court’s since-stayed preliminary injunction.

Agency	Number of Requests
General Services Administration	7
US Department of Agriculture	7
Department of Treasury	5
Department of Health & Human Services	4
Department of Interior	2
Department of Transportation	2
Federal Mediation and Conciliation Service	2
US Agency for Global Media	2
Department of Commerce	1
Department of Labor	1
Department of Housing & Urban Development	1
Institute of Museum and Library Services	1
National Archives and Records Administration	1
National Endowment for Humanities	1
Department of State	1
US African Development Foundation	1
Wilson Center	1
17 Agencies	40 Requests

Agency-Request listing:

General Services Administration — 7 requests

- 3/11 request, approved 3/12 – Office of the Administrator; Public Building Services
- 3/14 request, approved 3/17 – Office of Travel, Employee Relocation and Transportation
- 3/18 request, approved 3/19 – Office of the Administrator
- 3/28 request, approved 3/28 – Technology Transformation Services
- 3/28 request, approved 3/28 – Technology Transformation Services
- 3/31 request, approved 4/02 – Federal Acquisition Service
- 4/03 request, approved 4/04 – Office of the Administrator

US Department of Agriculture — 7 requests

- 03/17 request (two), approved 03/18 - Office of Executive Secretariat; Office of Partnerships & Public Engagement; OHRM (Director & Policy; Talent Management; Employee Experience; Executive Resources Management; HR Operations; HR Enterprise Systems Management; ER/LR); Office of Contracting & Procurement (Director & Procurement System; Procurement Operations); Office of Operations; Office of Small & Disadvantaged Business Utilization; Office of Property & Environmental Management; Office of Safety, Security & Protection; Office of Homeland Security
- 03/19 request (two), approved 03/20 – Food Safety and Inspection Service; Office of Employee Experience and Development; Forest Service Headquarters
- 03/20 request, approved 03/22 - Food Nutrition and Consumer Service-Center for Nutrition Policy and Promotion; Farm Production and Conservation Mission Area-Business Center Customer Experience Division; Natural Resources Conservation Service-Office of Urban Agriculture and Innovation; Natural Resources Conservation Service-Gulf Coast Restoration Office; Natural Resources Conservation Service-Climate Division; Forest Service-Pacific Southwest Research Station
- 03/21 request (two); approved 03/25 – Forest Service Region 9; Foreign Agricultural Service

Department of Treasury — 5 requests

- 4/01 request; approved 4/02 – IRS – Communications and Liaison
- 4/02 request; approved 4/04 – IRS – Privacy; Government Liaison; and Disclosure
- 4/07 request; approved 4/09 – Agency - wide
- 4/09 request; approved 4/17 – IRS – Independent Office of Appeals
- 4/10 request; approved 4/17 – IRS – Taxpayer Advocate Service

Department of Health and Human Services — 4 requests

- 3/25 request; approved 3/27 – Agency-wide
- 3/26 request; approved 3/27 – Centers for Disease Control and Prevention
- 3/29 request; approved 3/31 – Agency-wide
- 3/31 request; approved 3/31 – Office of the Secretary

Department of Interior — 2 requests

- 3/26 request; approved 3/28 – BLM National Training Center; Communications Offices; NPS' Commemoration & Community Engagement
- 3/26 request; approved 3/28 – Bureau of Ocean Energy Management; Bureau of Safety and Environmental Enforcement

Department of Transportation — 2 requests

- 4/03 request; approved 4/18 - Federal Highway Administration; Federal Motor Carrier Administration; Federal Railroad Administration; Federal Transit Administration; Great Lakes St. Lawrence Seaway Dev Corp; National Highway Traffic Safety Administration; Pipeline and Hazardous Materials Administration
- 4/09 request; approved 4/18 – Office of the Secretary; Maritime Administration

Federal Mediation and Conciliation Service — 2 requests

- 3/19 request; approved 3/20 – Agency-wide
- 3/26 request; approved 3/28 - Agency-wide

US Agency for Global Media — 2 requests area

- 3/17 request; approved 3/17 - Agency-wide
- 3/24 request; approved 3/26 - Agency-wide

Department of Commerce — 1 request

- 3/21 request; approved 3/26 – Agency-wide

Department of Labor – 1 request

- 4/09 request; approved 4/16 – Office of Federal Contract Compliance Programs

Department of Housing & Urban Development – 1 request

- 3/12 request; approved 3/13 – Office of the CIO; Office of the General Counsel; Office of Departmental Employment and Equal Opportunity; Office of the Chief Administrative Officer; Office of Departmental Management; Office of Public and Indian Housing; Office of Lead Hazard and Healthy Homes;

Institute of Museum and Library Services – 1 Request

- 3/31 request; approved 4/01 - Agency-wide

National Archives and Records Administration – 1 request

- 4/09 request; approved 4/21 – Agency-wide

National Endowment for Humanities – 1 request

- 4/08 request; approved 4/09 – Agency-wide

Department of State – 1 request

- 4/10 request; approved 4/11 – Counter Foreign Information Manipulation and Interference Hub

US African Development Foundation – 1 Request

- 3/13 request; approved 3/14 – Office of the President; Office of Internal Audits; Program Region Branch 1; Finance and Administration Division; Information Technology Unit; Program Division

Wilson Center – 1 Request

- 4/07 request; approved 4/10 – Agency wide